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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,041	09/11/2003	Benjamin T. Gomez	47079-0230	5774
30223	7590	11/15/2005	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/660,041

Applicant(s)

GOMEZ ET AL.

Examiner

Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/11/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a) In claim 1, line 6, the limitation "the plurality of offers" is ambiguous. It is not clear if the plurality of offers imply the incomplete offers in line 3, or other offers that are different from the incomplete offers. Further, the limitation "the plurality of offers" lacks of antecedent basis.
  - b) In claim 8, lines 7-8, and claim 15, line 9, the limitation "the plurality of offers" is ambiguous. Refer to the explanation in claim 1 above.
  - c) Claims 2-7, 9-14 and 16-20 are rejected as being dependent on the rejected base claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrald et al (US 2005/0055115).**

As per claim 1, Gerrald discloses a method for conducting a wagering game. The method comprises receiving a wager (paragraphs 0044 and 0087); displaying a plurality of incomplete offers (contestants A, B, C) (Fig. 3; paragraph 0071); allowing the player to accept an incomplete offer (paragraphs 0081-0082 and 0134); and awarding the accepted offer to the player (paragraphs 0082 and 0094). Gerrald does not explicitly disclose completing the offers after the player accepts the incomplete offer. However, since Gerrald discloses completing the incomplete offers after the player accepts the final remaining offer (e.g. C contestant in Fig. 6; paragraphs 0083, 0086-0087), Gerrald obviously encompasses teaching completing the offers after the player accepts the incomplete offer in order to enable the player to determine all the offers the gaming device makes to the player.

As per claim 2, Gerrald discloses associating awards with the incomplete offers (Fig. 5; paragraphs 0074-0075 and 0078).

As per claim 3, Gerrald discloses associating final awards 92 (Fig. 6) with the completed offers (Figs. 5 and 6).

As per claim 4-5, Gerrald discloses conducting a reel slot game and displaying the bonus game in response to a special outcome in the basic game (paragraphs 0056-0057 and 0051).

As per claim 6, Gerrald discloses associating the incomplete offers with the player (paragraph 0010). Further, associating offers with the player prior displaying

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the offers on a display would have been both well-known and obvious design choice according to the game designer's preference.

As per claim 7, Gerrald discloses allowing the player to change an offer (e.g. player picks another contestant) (paragraph 0077).

As per claim 8-18, refer to discussion in claims 1-7 above.

As per claim 19-20, Gerrald discloses accumulating credit amounts at different rates (Figs. 17-18; paragraphs 0126-0128 and 0131). Further, fluctuating the rate of accumulating credit amount over time would have been both well-known and obvious design choice according to the game designer's setting of the game.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The central official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

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Date: November 12, 2005



Kim Nguyen  
Primary Examiner  
Art Unit 3713